

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 3, 1997

DIVISION TWO

B095418 Madeline Thomas et al. (Not for Publication)
 v.
 John Barbor, Sr.

The judgment is affirmed. Respondent is awarded costs on appeal.

Nott, J.

We concur: Boren, P.J.
 Fukuto, J.

B101146 Mighty Enterprises (Not for Publication)
 Bill W. Lew
 v.
 Jia Shih

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Fukuto, J.

B104595 People (Not for Publication)
 v.
 Terry Luis Franco

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

September 3, 1997-Continued

DIVISION TWO (Continued)

B105830 People (Not for Publication)
v.
Tourmaria Foreman

The Court:

The judgment (order granting probation) is affirmed.

Boren, P.J., Nott, J., Ito, J. (Assigned)

B106057 People (Not for Publication)
v.
Kenneth D. Ray

The Court:

The judgment is affirmed and the superior court is directed to modify the abstract of judgment to reflect convictions of first degree burglary in count 1; forcible oral copulation, rather than oral copulation with a person under the age of 14, in violation of Penal Code section 288a, subdivision (c) in counts 2, 3, 5, 6, 11, 12, and 13; forcible rape in counts 8, 9, 10, 14, 15, and 16; and forcible sexual penetration by foreign object in counts 4 and 7.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

B102130 People (Not for Publication)
v.
Julio Angel Rodriguez

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Ito, J. (Assigned)

September 3, 1997-Continued

DIVISION TWO (Continued)

B106049 People (Not for Publication)
v.
Wesley Roman et al.

The Court:

The judgments are affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

DIVISION FOUR

B085845 Salgado (Certified for Publication)
v.
County of Los Angeles

The nonsuit in favor of Dr. Henry is affirmed. The judgment notwithstanding the verdict on Mrs. Salgado's cause of action for negligent infliction of emotional distress is reversed and the judgment for Mrs. Salgado is reinstated. The award of costs to County under section 998 is reversed. The award of attorney's fees and certain costs to Jabes is reversed. The periodic payment schedule is affirmed. The case is remanded to the trial court with directions to enter a new judgment consistent with this opinion. The parties are to bear their own costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Baron, J.

September 3, 1997-Continued

DIVISION FOUR (Continued)

B110883 People (Not for Publication)

V.
Jorge A.

The Court:

This matter is remanded for determination of whether appellant's violation of Penal Code section 626.10, subdivision (b) was a felony or a misdemeanor and for clarification of the maximum period of confinement which may be imposed for that violation. In all other respects the judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Hastings, J.

B101767 People (Not for Publication)

V.
Jones

The judgment is affirmed.

Baron, J.

We concur: Epstein, Acting P.J.
Aranda, J. (Assigned)

B092994 People

V.
Pitto

Filed order denying petition for rehearing.

B104077 People

V.
Phillips

Filed order denying petition for rehearing.

DIVISION FOUR (Continued)

B108423 Los Angeles County, D.C.S.
 v.
 Carole S.

Filed order denying petition for rehearing.

DIVISION FIVE

Court convened at 9:00 A.M.

Present: Turner, P.J., Grignon, J., Godoy Perez, J., and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B105390 People v. Jesse Johnson
B100904 People v. Dawson
B100665 Walton v. Magno
B108525 People v. Jimmy Caruso
B112075 People v. Freddie Dewitt
B110965 People v. Jose S. Torres
B106725 People v. Derril Peck
B101644 People v. Soto
B103038 People v. Billy Mallard
B112883 Patricia L. et al. v. (S.C.L.A.) DCFS, R.P.I.

Argument waived, cause submitted.

B104141 Ronald Hood
 v.
 Hacienda La Puente Unified School Dist. etc.

Merits:

Argued by Steven J. Prough and Calvin House for appellants and by Janine K. Jeffrey for respondent. Cause submitted.

DIVISION FIVE (Continued)

B096827 Gustaaf Van't Hof
 v.
 Metropolitan Water District

Argument waived, submission deferred until 9-12-97.

B106654 Henry Venegas
 v.
 20th Century Insurance Company

Merits:
Argued by Jules S. Zeman for respondent and no appearance by appellant.
Cause submitted.

B109512 The People
 v.
 Juan Avalos et al.

Merits:
Argued by Phillip I. Bronson and Catherine F. Campbell for appellants and
by Debbie Bigbee, Deputy Attorney General for respondent. Cause
submitted.

B110520 The People
 v.
 Khom Kat et al.

Merits:
Argued by Catherine F. Campbell and Matthew D. Alger for appellants and
by Debbie Bigbee, Deputy Attorney General for respondent. Cause
submitted.

DIVISION FIVE (Continued)

B105217 Hope & Flower
 v.
 Katsuo Yoshimoto

Merits:

Argued by Andrea Slade for appellant and by Eric Y. Nishizawa for respondent. Cause submitted.

B104363 Deborah L. Kavanaugh
 v.
 Toyota Motor Sales U.S.A.

Merits:

Argued by Charles A. Bird for appellant and by Berta Peterson-Smith for respondent. Cause submitted.

B105791 Javier Ramos
 v.
 Ramona Gonzalez

Merits:

Argued by J. Brian Watkins for appellant and by Nancy L. Newman for respondent. Cause submitted.

B110179 G. Balasubramani
 v.
 Merrill Lynch Pierce Fenner & Smith, Inc.

Merits:

Argued by G. Balasubramani, in propria persona and by Stacey M. Garrett for respondent. Cause submitted.

DIVISION FIVE (Continued)

B105583 Anthony Aulisio
 v.
 Aegis Financial Group, Inc.

Merits:

Argued by Denis A. O'Mahoney for appellant and by Jim T. Tice for respondent. Submission deferred for 20 days pending filing of final judgment.

Court recessed 11:10 a.m.

Court reconvened at 11:14 a.m.

Present: Grignon, Acting P.J., Armstrong, J., Godoy Perez, J., and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B105309 People v. Ramirez
B106138 People v. Medina
B108275 People v. Moises Y.
B106694 People v. Javier Gonzalez

Argument waived, cause submitted.

B100134 The People
 v.
 Ernest Byas

Merits:

Argued by Steven C. Bronson for appellant and by Ana R. Duarte, Deputy Attorney General for respondent. Cause submitted.

DIVISION FIVE (Continued)

B113848 Lawrence A. Truitt
 v.
 S.C.L.A.
 (The Atchison, Topeka & Santa Fe RR. Co., R.P.I)

Merits:

Argued by Larry R. Feldman for petitioner and by no appearance for respondent and by Gregory Lawrence Evans for real party in interest. Cause submitted.

Court recessed at 12:04 P.M.

The Court reconvened at 1:00 p.m.

Present: Grignon, Acting P.J., Armstrong, J., Godoy Perez, J., and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B104825 DCS v. Ethel J.
B107121 DCS v. Ethel J.
B103094 Brestyansky v. Sanyal
B100275 3250 Wilshire Boulevard v. Patrick Huang
B106600 Avila v. Chua

Argument waived, cause submitted.

B105905 Clifford L. Corman
 v.
 Cindy Corman

Merits:

Argued by Jeffrey W. Doeringer for appellant and by Marjorie G. Fuller for respondent. Cause submitted.

DIVISION FIVE (Continued)

B103572 Richard E. Lee
 v.
 Los Angeles Unified School Dist.

Merits:

Argued by William R. Hess for appellant and by Chad M. Steur for respondent. Cause submitted.

Court adjourned.

DIVISION SIX

Civil Gray
No. vs.
B111998 Aames Home Loan Co.

The court, on its own motion, dismisses the appeal without prejudice. The March 11, 1997 order denying the motion for attorney's fees is an interlocutory, non-appealable order.

Crim. People (Not For Publication)
No. vs.
B111928 Garcia

The judgment is affirmed.

Stone, P.J.

We concur: Yegan, J.
 Coffee, J.

September 3, 1997-Continued

DIVISION SIX (Continued)

Crim.	People	(Not For Publication)
No.	vs.	
B110459	Adame	

The judgment is affirmed.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

Crim.	People	(Not For Publication)
No.	vs.	
B108048	Harris	

The judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.
Gilbert, J.

Crim.	People	(Not For Publication)
No.	vs.	
B112218	Dunn	

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
Coffee, J.

DIVISION SIX (Continued)

Civil	Marriage	(Not For Publication)
No.	of	
B105708	Mason	

The order denying the motion for reconsideration is affirmed. Costs on appeal are awarded to Marjorie. We direct the trial court to hold a hearing to determine costs and reasonable attorney fees incurred by Marjorie in defending this appeal. Payment of such costs and fees shall be paid by Raymond. We also assess sanctions against counsel for Raymond in the sum of \$1,500 for prosecuting this frivolous appeal.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

Crim.	The People	(Not For Publication)
No.	vs.	
B111482	Doty	

The judgment (order granting probation) is affirmed.

Coffee, J.

We concur: Stone, P.J.
Yegan, J.

Civil	State of Calif.	(Not For Publication)
No.	vs.	
B104121	McQuinn, et al.	

Filed order modifying opinion (no change in judgment) and denying petition for rehearing.

DIVISION SIX (Continued)

Crim.	The People	(Not For Publication)
No.	vs.	
B103622	Tomchin	

Filed order modifying opinion (no change in judgment) and denying petition for rehearing.

DIVISION SEVEN

B102773	People	(Not for Publication)
	v.	
	Rodriguez	

That portion of the judgment ordering sentence of appellant is reversed and the cause is remanded to the trial court to consider whether to strike prior convictions in conformity with People v. Superior Court (Romero), supra, 13 Cal.4th a pp. 529-533. In all other respects, the judgment is affirmed.

Johnson, J.

I concur: Lillie, P.J.
I concur and dissent: Woods, J. (Opinion)

B111729	Cassim	(Not for Publication)
	v.	
	Superior Court, Los Angeles County	
	(Birkmeyer, r.p.i.)	

The petition is denied.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

September 3, 1997-Continued

DIVISION SEVEN (Continued)

B101292 Fudge (Not for Publication)
v.
Fest

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B104425 People (Not for Publication)
v.
Debato

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods , J.

[illegible]

The judgment is affirmed. The superior court shall cause an amended abstract of judgment to be sent to the Department of Corrections indicating the court imposed one Penal Code section 667.5, subdivision (b), separate prison term enhancement and stayed the two Penal Code section 667.5, subdivision (b), separate prison enhancements.

Johnson, J.

I concur: Lillie, P.J.
I concur and dissent: Woods, J. (Opinion)

September 3, 1997-Continued

DIVISION SEVEN (Continued)

B012876 People (Not for Publication)
v.
Rivera

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

B083488 Tanklage (Not for Publication)
v.
Tanklage

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B106335 Pollay (Not for Publication)
v.
Saugus Union School District

The judgment granting Pollay's writ of mandate, and directing the District to reinstate Pollay and to pay her back salary and benefits is affirmed. Costs are awarded to respondent Pollay.

Neal, J.

We concur: Johnson, Acting P.J.
Woods, J.

September 3, 1997-Continued

DIVISION SEVEN (Continued)

B106056 People (Not for Publication)
v.
Ochotorena

The judgment is modified by striking the Penal code section 667.5, subdivision (b) enhancements. As modified, the judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
Woods, J.